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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
10/656,465	09/05/2003	Norbert Moszner	20959/2130 (P 63013)	8449								
7590 Nixon Peabody LLP Clinton Square P.O.Box 31051 Rochester, NY 14603-1051		12/28/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">BUMGARNER, MELBA N</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3732</td><td></td></tr></table>		EXAMINER		BUMGARNER, MELBA N		ART UNIT	PAPER NUMBER	3732	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/656,465

Applicant(s)

MOSZNER ET AL.

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 1707.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: recitation of "the surface" lacks sufficient antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 9, 11, 16, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Cornell (3,265,202). Cornell discloses a flexible dental polymer film comprising a non fiber-reinforced flexible film layer which comprises polymerizable groups capable of further polymerization, which film can be shaped around a tooth and cured by polymerization (column 1 line 16, column 1 line 37). The film contains an acrylate or methacrylate group. At least a part of the polymerizable groups is radically polymerizable. At least a part of the polymerizable groups is cationically polymerizable. The methacrylate ester can be called a Michael addition resin. The film can comprise an initiator (column 9 line 50), organic fillers (column 9 line 17), polymerization inhibitors (column 7 line 34), pigments (column 9 line 72), and active substance (column 9 line 35). The film is detachably held on a carrier film, the carrier film being translucent, such that it can be polyethylene.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornell in view of Mitra et al. (5,154,762). Cornell discloses a dental film that shows the limitations as described above; however, Cornell does not show the initiator in microencapsulated form. Mitra et al. teach a dental polymer comprising an initiator in microencapsulated form. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film to have microencapsulated initiator in order to enhance shelf stability in view of Mitra et al.

6. Claims 10, 12, 13, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornell in view of Prasad et al. (6,039,569). Cornell discloses a dental film that shows the limitations as described above; however, Cornell does not show the film comprising an antioxidant. Prasad et al. teach a dental film having an antioxidant (column 3 line 49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film to have a known additive such as an antioxidant in the film for enhanced antioxidant properties. Cornell shows the film having two sides, Prasad et al. teach the film having the side facing the tooth surface coated with a primer. It would have been obvious to one of ordinary skill in the art to have a coating of primer to promote adhesion of the film to the tooth surface. Prasad et al. teach a dental film and adhesive. It would have been obvious to include adhesive to the tooth surface to improve wetting and adhesion of the film to the surface.

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7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornell in view of Vallittu et al. (6,197,410). Cornell discloses a dental film that shows the limitations as described above and having two sides; however, Cornell does not show the film coated with anti-adhesive additive. Vallittu et al. teach a dental film with polymeric material coating which is not adhesive in quality on the side facing away from the tooth surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to call the polymeric material of an anti-adhesive additive and to have such a coating to improve cosmetic qualities in view of Vallittu et al.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornell in view of Karazivan (WO 01/93774). Cornell discloses a dental film that shows the limitations as described above; however, Cornell does not show the carrier film of an inflatable film bag. Karazivan teaches the film detachably held on a carrier film in the form of an inflatable film bag (page 12 line 27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film of Cornell having the carrier film of Karazivan in order to better adapt the dental film to the applied surface.

Response to Arguments

9. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Melba Bumgarner".

Melba Bumgarner
Primary Examiner